

Message Text

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C O N F I D E N T I A L SECTION 1 OF 2 ANKARA 3793

EO 11652 GDS

TAGS: CASC, TU

SUBJECT: ANTAKYA THREE CASE: MEETING WITH PROFESSOR EREM

REF: (A) ANKARA 3693 (NOTAL); (B) ANKARA 3400

SUMMARY: DURING LENGTHY MAY 13 MEETING WITH APPEALS ATTORNEY FARUK EREM, AMBASSADOR, DCM, AND CONSULAR OFFICERS REVIEWED APPEALS COURT DECISION AND DISCUSSED POSSIBLE COURSES OF ACTION AVAILABLE IN WAKE OF UNFAVORABLE OUTCOME OF APPEAL, INCLUDING POSSIBLE PASSAGE OF A SPECIAL AMNESTY BILL BY THE TURKISH PARLIAMENT AND ACTION UNDER LAW 647. END SUMMARY.

1. PROFESSOR EREM BEGAN BY REVIEWING FACTS OF THE CASE BEARING ON THE APPEALS COURT DECISION (REF B), NOTING IN PARTICULAR THAT UPON FIRST BEING ARRESTED, MEMBERS OF THE GROUP ALLEGEDLY ACCUSED EACH OTHER OF HAVING FULL KNOWLEDGE OF THE CRIME. IN EREM'S VIEW, THE COURT REGARDED HUBBARD'S LATER TESTIMONY AS SELF-SERVING, I.E., BY SAYING THE GIRLS HAD NO KNOWLEDGE OF THE CRIME, HUBBARD HOPED TO REDUCE SERIOUSNESS OF THE CHARGES AGAINST HIMSELF.

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2. NEW TRIAL. EREM SAID THE APPEALS COURT DECISION MADE

NO MENTION OF "NEW EVIDENCE, NEW WITNESSES, OR NEW TRIAL," AS ALLEGED IN THE PRESS. HE OBSERVED THAT UNDER TURKISH LAW IT IS ALWAYS POSSIBLE FOR A DEFENDANT TO REQUEST A NEW TRIAL IF SIGNIFICANT NEW EVIDENCE TURNS UP, BUT HE DOUBTED THERE WAS MUCH CHANCE IT WOULD HAPPEN IN THIS CASE.

3. CORRECTION OF JUDGMENT. EREM SAID HE WOULD CONTINUE TO SEEK WAYS TO BENEFIT HIS CLIENTS AND, IN THIS CONNECTION, HAD ALREADY ASKED THE APPEALS COURT FOR A "CORRECTION OF JUDGMENT." THE COURT HAS NOT YET REPLIED. IN ESSENCE, THIS IS A LEGAL TECHNIQUE WHEREBY THE APPEALS ATTORNEY CALLS TO THE COURT'S ATTENTION IMPORTANT QUESTIONS WHICH WERE RAISED IN THE APPEAL, BUT WERE LEFT UNANSWERED IN THE COURT'S DECISION. THE COURT IS REQUIRED TO REPLY IN WRITING. IN EREM'S VIEW, THIS AVENUE OFFERS LITTLE HOPE OF SUCCESS, BECAUSE IN EFFECT IT ASKS THE COURT TO REVERSE ITSELF.

4. SPECIAL AMNESTY. ANOTHER ALTERNATIVE, EREM SAID, IS TO SEEK THE PASSAGE OF A SPECIAL AMNESTY BILL IN THE TURKISH PARLIAMENT IN BEHALF OF ZENZ AND MCDANIEL. (HE SAW LITTLE HOPE FOR HUBBARD). WHILE THERE WERE NO GROUNDS ON WHICH TO REQUEST A PRESIDENTIAL PARDON (WHICH WOULD HAVE TO BE BASED ON CHRONIC ILLNESS, OLD AGE, OR INFIRMITY), EREM SAID THE PARLIAMENT MIGHT GRANT A SPECIAL AMNESTY IN THE INTEREST OF HUMANITARIAN CONSIDERATIONS AND OVERALL US-TURKISH RELATIONS. THIS HAS BEEN DONE IN CASES WHERE PARLIAMENT CONSIDERED THE JUDGMENT UNJUST, OR THE OFFENDER PARTICULARLY DISTINGUISHED OR UNUSUALLY YOUNG. EREM HIMSELF HAS SUCCEEDED IN THE PAST IN GETTING SPECIAL AMNESTY BILLS FOR TWO OF HIS CLIENTS -- ONE A DISTINGUISHED TURKISH ENGINEER, THE OTHER AN ISRAELI CONVICTED OF ROBBERY OR THEFT.

5. IN DISCUSSING MECHANICS, EREM SAID AN APPLICATION FOR A SPECIAL AMNESTY WOULD BE MADE TO THE JUSTICE COMMITTEE OF THE NATIONAL ASSEMBLY, WHICH WOULD THEN REQUEST AN OPINION FROM THE MINISTRY OF JUSTICE. (AT THIS POINT IN THE ISRAELI CASE, HE ADDED, THE ISRAELI CONSUL HAD APPROACHED THE FOREIGN MINISTRY IN BEHALF OF THE DEFENDANT, AND THE FOREIGN MINISTRY HAD INTERCEDED WITH THE JUSTICE MINISTRY. CONFIDENTIAL

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EREM BELIEVED A SIMILAR US APPROACH IN THE ANTAKYA CASE WOULD BE HELPFUL.) EREM ALSO SAID THAT IF HE DECIDES TO TRY FOR A SPECIAL AMNESTY, HE WOULD LIKE TO HAVE TRANSLATIONS OF REPORTS IN THE AMERICAN PRESS INDICATING THE DEGREE OF PUBLIC CONCERN IN THE CASE, THEREBY DEMONSTRATING THE BENEFITS TO TURKEY RESULTING FROM A SPECIAL AMNESTY FOR THE TWO GIRLS.

6. A NUMBER OF DIFFICULTIES WERE DISCUSSED IN CONNECTION

WITH THE SPECIAL AMNESTY IDEA, INCLUDING THAT THE POLITICAL MOOD IN THE NATIONAL ASSEMBLY MIGHT NOT BE HOSPITABLE TO SUCH A PROPOSAL AT THE MOMENT, PARTICULARLY IN VIEW OF THE POPPY SITUATION. IN ADDITION, IT WOULD BE DIFFICULT TO CLAIM THAT EITHER ZENZ OR MCDANIEL IS PARTICULARLY YOUNG OR DISTINGUISHED. THERE IS ALSO THE QUESTION OF THE EFFECT ON OTHER CASES (E.G., THE HAYES CASE). IF A SPECIAL AMNESTY WERE TO BE PASSED IN THE ANTAKYA CASE, OTHER PRISONERS MIGHT WELL SWAMP THE PARLIAMENT WITH SIMILAR REQUESTS. EREM, AS THE ATTORNEY IN THE CASE, WILL DECIDE WHETHER IT

WOULD BE IN HIS CLIENTS' INTEREST TO PROCEED WITH THIS APPROACH AND, IF SO, HE WILL WORK OUT TIMING AND TACTICS. WE AGREED THE EMBASSY WOULD BE PREPARED TO PROVIDE APPROPRIATE ASSISTANCE.

7. REPATRIATION UNDER LAW 647. EREM, WHO DRAFTED THIS PORTION OF THE TURKISH LAW, SAID THAT FROM THE TURKISH STANDPOINT, THIS WAS PROBABLY THE SIMPLEST WAY TO RESOLVE THE CASE. HE BELIEVED THE TURKISH GOVERNMENT WOULD RESPOND FAVORABLY TO A REQUEST FROM THE EMBASSY THAT THE ANTAKYA DEFENDANTS BE RETURNED TO THE US TO SERVE OUT THEIR SENTENCES UNDER LAW 647. EREM OFFERED TO ACT AS AN INTERMEDIARY WITH THE JUSTICE MINISTRY IN THE EVENT SUCH A REQUEST IS MADE. HE CONFIRMED EARLIER REPORTS THAT THE GOT DID NOT TRULY EXPECT RECIPROCITY FOR TURKISH PRISONERS IN THE US, THOUGH SOME FACE-SAVING DEVICE WOULD BE HELPFUL. HE ALSO NOTED HIS BELIEF THAT GOT WOULD NOT BE VERY INTERESTED IN CHECKING UP ON WHAT ACTUALLY HAPPENED ONCE PRISONERS WERE IN US.

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